

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Joseph Gibbs, Appellant, v. Dubuque County Board of Review, Appellee.	ORDER Docket No. 13-31-0385 Parcel No. 13-13-376-001 Docket No. 13-31-0386 Parcel No. 13-13-200-003 Docket No. 13-31-0387 Parcel No. 13-13-300-004 Docket No. 13-31-0388 Parcel No. 13-13-300-001
--	--

On March 19, 2014, the above-captioned appeal came on for a telephone hearing before the Iowa Property Assessment Appeal Board (PAAB). The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney Todd Locher, Locher & Locher, PLC, in Farley, Iowa, represented Appellant Joseph Gibbs. Assistant County Attorney Joshua Vander Ploeg represented the Board of Review. The Appeal Board now, having heard the testimony, examined the entire record, and being fully advised, finds:

Findings of Fact

Joseph Gibbs is the owner of an agriculturally classified property located in Epworth, Iowa. The subject property includes four parcels of agricultural realty, a dwelling, and agricultural buildings.

According to the 2013 Assessment Roll, the total site consists of 139.02 acres. Docket 13-31-0385 consists of 40.02 acres assessed at \$110,733. Docket 13-31-0386 consists of 20.00 acres assessed at \$44,818. Docket 13-31-0387 consists of 40.00 acres assessed at \$113,543. Docket 13-31-0388 consists of 39.00 acres and is assessed at \$93,511. This parcel also includes a dwelling assessed

at \$86,720 and agricultural buildings assessed at \$30,290. The total assessed land value of the four parcels is \$362,605. This information is summarized below.

Docket Number	Parcel Number	Acres	Assessed Land Value
13-31-0385	13-13-376-001	40.02	\$110,733
13-31-0386	13-13-200-003	20.00	\$ 44,818
13-31-0387	13-13-300-004	40.00	\$113,543
13-31-0388	13-13-300-001	39.00	\$93,511
Total		139.02	\$362,605

Gibbs protested to the Dubuque County Board of Review regarding his 2013 assessments. He claimed the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). He did not specify the value he sought. In his Board of Review petition, Gibbs did not challenge the value of the dwelling and agricultural buildings. The Board of Review denied the protest.

Gibbs then appealed to this Board reasserting his claim of over-assessment. He claims the total assessed land value should be \$262,886. He did not assign a value to each of the parcels. Gibbs attempted to raise a claim that the property was not assessed equitably as compared to other comparable properties in the jurisdiction under section 441.37(1)(a)(1). Gibbs did not raise this ground before the Board of Review. On appeal, Gibbs is limited to only those claims first raised before the Board of Review. § 441.37A(1)(b). For this reason, this Board will only consider the over-assessment claim.

Gibbs testified at the hearing and stated there are three tree-lined creeks running through the property making some of the land non-tillable. He reported in 2012, a 10-acre field, planted in corn, did not yield a normal crop. He also explained that corn prices are lower than they have been in previous years and this was not taken into account for this assessment. Gibbs reported that years of flooding have badly eroded the soil into the waterways and creeks. In his opinion, this erosion has reduced the tillable acres. Gibbs also reported several constantly wet spots and sand pockets of

unproductive, low quality soil. According to Gibbs, the soil map does not include one of these spots located on the southwest corner of Parcel 1313300004. Exhibit A shows the southwest corner of this parcel has a corn suitability rating (CSR) of 53, which appears to be low relative to the CSRs of Gibbs' remaining property.

Gibbs submitted an exhibit comparing the assessments of his parcels to those of an adjacent property. (Exhibits 1, 2). In the chart, he calculated the assessed value of each parcel per acre and per CSR point. (Exhibit 3). These calculations do not account for the portion of each adjacent parcel considered non-cropland and given a discounted value by the Assessor. Additionally, the comparisons offered appear to support an equity argument, which is not before this Board. For these reasons, we do not give it any consideration.

Assessor David Kubik testified he used a method to value agricultural land prescribed by administrative rules. This method uses the CSR and the productivity and earning capacity of the land. Kubik further divides the land into two categories, crop and non-crop. Kubik applied an adjustment of 49% to the non-cropland to represent its reduced productivity and earning capacity. (Exhibits C-F). Kubik testified the productivity formula developed by the Department Revenue utilized data from crop years 2007 to 2011 as required by the administrative rules.

Parcel	Acres	CSR Points	Crop Acres Calculation	\$ Non-Crop Adjustment	Non-Crop Adjusted Value	Assessed Value
13-13-376-001						
Crop Acres	37.52	2671.95	\$106,878.00			
Non-Crop Acres	2.50	188.98	\$7,559.20	(\$3,704.00)	\$3,855.20	
Parcel Totals	40.02	2860.93	\$114,437.20	(\$3,704.00)		\$110,733.20
13-13-200-003						
Crop Acres	19.87	1116.27	\$44,650.80			
Non-Crop Acres	0.13	8.19	\$327.60	(\$160.52)	\$167.08	
Parcel Totals	20.00	1124.46	\$44,978.40	(\$160.52)		\$44,817.88
13-13-300-004						
Crop Acres	36.70	2713.42	\$108,536.80			
Non-Crop Acres	3.30	245.38	\$9,815.20	(\$4,809.45)	\$5,005.75	
Parcel Totals	40.00	2958.8	\$118,352.00	(\$4,809.45)		\$113,542.55
13-13-300-001						
Crop Acres	34.25	2169.37	\$86,774.80			
Non- Crop Acres	4.75	330.23	\$13,209.20	(\$6,472.51)	\$6,736.69	
Parcel Totals	39.00	2499.60	\$99,984.00	(\$6,472.51)		\$93,511.49
Property Totals	139.02		\$377,751.60	(\$15,146.48)		\$362,605.12

The chart above uses a standard, county-wide \$40 per CSR point value before applying any adjustments. It shows the values of the non-cropland acres on each parcel before and after Kubik applied the adjustments. Gibbs' parcels have been adjusted downward \$15,146.48 to account for the 10.68 acres of non-cropland. The same uniform procedure was used to calculate the assessment of a neighbor's parcel. (Exhibit G).

While Gibbs believes more of his land is non-cropland than the assessment indicates, Kubik's figures were obtained using GIS mapping technology to determine what acres are considered non-cropland and cropland. (Exhibits A & B). The maps indicate the creeks and homestead areas are non-cropland, but all remaining areas, even if relatively less productive, are considered cropland. The reduced productivity is reflected in the CSR.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Iowa Code section 441.21(1)(e) provides that agricultural real estate be assessed at its actual value by giving exclusive consideration to its productivity and net earning capacity. In determining the productivity and net earning capacity of agricultural real estate, the assessor is required to use available data from Iowa State University, the Iowa crop and livestock reporting service, the Department of Revenue, the *Iowa Real Property Appraisal Manual*, and to consider the results of a modern soil survey, if completed. Iowa Code § 441.21(1)(f); Iowa Admin. Code r. 701-71.3. The Department of Revenue uses agricultural income and expense data to determine the five-year rolling average, in this case 2007 to 2011, which is used to establish the productivity and earning capacity of agricultural

property. Iowa Admin. Code r. 701-71.12. Gibbs' parcels all carry an agricultural classification, which requires that they are valued using the set formula. *See* Iowa Admin. Code rule 701-71.3, 701-71.12.

It appears to this Board that Gibbs' primary concerns relate to the value assigned to less-productive areas and the determination of which acres are cropland and non-cropland. Gibbs' testified about certain areas he believes should be considered non-cropland and to incidences of reduced productivity in specific sections of his property. Kubik stated he used GIS mapping to determine which areas should be considered non-cropland and applied a 49% adjustment to all non-cropland acres. Based on the evidence and testimony, it appears to this Board that Gibbs' non-cropland has been given a beneficial, downward adjustment and his assessment reflects more than \$15,000 in adjustments to the non-cropland values.

In addition, the reduced productivity of certain areas of Gibbs' property appears to be reflected in lower CSR values in those spots. Gibbs produced no evidence to suggest the CSR values are incorrect or to establish these areas should be considered non-cropland. Although Gibbs reports crop prices have been declining, the administrative rules used to set values for agricultural property have yet to take the price reductions into account.

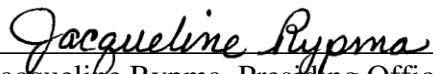
We note a recent amendment to Iowa Administrative Code Rule 701-71.3(1) may modify the Assessor's Office procedure for determining which portion of the property qualifies as non-cropland and the adjustments to non-cropland in future years. While full implementation of the amended rule is not required until 2017, taxpayers may apply for adjustments starting with the 2014 assessment. R. 701-71.3(1)(b),(c). We suggest Gibbs consult with the Assessor regarding this amendment if he has not already done so.

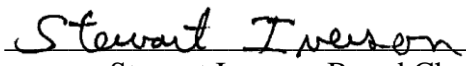
In conclusion, we believe Kubik is implementing a uniform procedure to account for the non-cropland in agricultural assessments and Gibbs' assessment takes into consideration the relative

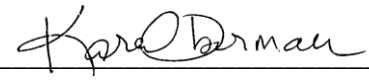
productivity of his land via the CSR values. We find Gibbs failed to prove his property is assessed for more than the value authorized by law.

THE APPEAL BOARD ORDERS the assessment of the Joseph Gibbs' property located in Epworth, Iowa, as set by the Dubuque County Board of Review is affirmed.

Dated this 4th day of April, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

Copies to:

Todd J. Locher
Locher & Locher, PLC
PO Box 7
Farley, IA 52046
ATTORNEY FOR APPELLANT

Joshua Vander Ploeg
Assistant Dubuque County Attorney
720 Central Avenue
Dubuque, IA 52001
ATTORNEY FOR APPELLEE